

Date: September 2, 2009

To: The U.S. Securities and Exchange Commission

From: William T. George (an institutional investment professional)

Subject: SEC Proposes Rule Amendments to Strengthen Safeguards of Investor Funds Controlled by Investment Advisers

I believe this proposal, or a companion proposal, should include specific requirements outlining necessary disclosure of registered investment advisers' uses of institutional clients' soft dollar brokerage commissions in what are now known as 'full service brokers' bundled undisclosed brokerage arrangements'.

It seems, in some instances, institutional clients' soft dollar brokerage commissions have been used improperly by registered investment advisors to purchase services, or favors, from their full-service brokerage providers using bundled undisclosed brokerage arrangements. Without adequate disclosure, it cannot be known if the exchange of these soft dollars is permissible under Section 28(e) of the Securities Exchange Act of 1934, and / or if it is appropriate under advisors' obligations as fiduciaries.¹

It's estimated that soft dollars generated in bundled undisclosed soft dollar brokerage arrangements with full-service brokerage firms calculate to more than eleven billion dollars per year. If these soft dollars are used to purchase services which contribute to the investment performance of institutional clients' portfolios' the uses would seem appropriate. However, If these soft dollars are used (by registered investment advisors) to purchase 'services' and favors which do not contribute clients' portfolios' investment performance such uses would be inappropriate, and the drain would be a significant drag on the compounding of clients' investment returns. It seems obvious the key to knowing if these soft dollars are being used appropriately would be a mandated regimen for (public) institutional brokerage commission disclosure, and active regulatory oversight of those disclosures.

A good model for a new soft dollar enforcement initiative might be "The Sweep Inspections" which concluded in the SEC OCIE's **Inspection Report on the Soft Dollar Practices of Broker-Dealers, Investment Advisors and Mutual Funds.**² It should be noted that this OCIE enforcement initiative focused only on institutional agency brokerage firms.³ The structure and the documentation provided in third-party institutional agency brokerage arrangements allows for much easier identification and auditing of the uses of soft dollar commissions than can be found in undisclosed bundled full-service brokerage arrangements. So, it seems the only way to enforce equal adherence to the provisions of Section 28(e) would be to require that registered institutional investment advisors make adequate brokerage commission disclosures.

¹ Key word search on: Global Research Analyst Settlement.

² See SEC website Special Studies **Inspection Report on the Soft Dollar Practices of Broker-Dealers, Investment Advisors and Mutual Funds** - published September 22, 1998.

³ *Ibid* - see **Section III. Examination Sweep: Objectives, Methodology, and Universe**